

**SENSITIVE**

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BEFORE THE FEDERAL ELECTION COMMISSION

2012 NOV -1 PM 3: 03

In the Matter of 2012 NOV -1 PM 3: 06 )

MUR 6559 )

Voters for Dick Muri and )

Colleen Morse as treasurer )

Richard W. Muri )

DISMISSAL AND  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

**CELA**

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and developments of the law. It is the Commission's policy that dismissal of relatively low-rated matters on the Enforcement docket is warranted through the exercise of its prosecutorial discretion under certain circumstances.

The Office of General Counsel has determined that MUR 6559 should not be referred to the Alternative Dispute Resolution Office. Also, for the reasons set forth below, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6559.<sup>1</sup>

On April 16, 2012, Jerry Curtis filed a complaint alleging that Richard W. Muri violated the Act and Commission regulations by not timely filing a new Statement of

<sup>1</sup> The EPS rating information is as follows:  
Received: May 14, 2012

Complaint Filed: April 16, 2012. Response

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1 Candidacy, and that Voters for Dick Muri and Colleen Morse in her official capacity as  
2 treasurer (the "Committee") violated the Act and Commission regulations by not timely filing  
3 an amended Statement of Organization. Compl. at 1. Curtis claims that as of April 9, 2012,  
4 the Commission's website indicated that Muri was a candidate in Washington State's Ninth  
5 District ("WA-09"), whereas the Committee sent letters, emails, and a press release in  
6 December 2011, indicating that Muri was a candidate in Washington State's Tenth District  
7 ("WA-10"), a new congressional district created as a result of redistricting.<sup>2</sup> Curtis also claims  
8 that at the time of his complaint, the Committee's most recently filed campaign finance report  
9 — an amended 2011 Year-End Report filed on April 3, 2012 — listed Muri as a candidate in  
10 WA-10. Compl. at 2.<sup>3</sup>

11 In response, the Committee's Campaign Manager Freddy McLaughlin asserts that after  
12 the new district was created in January 2012, the Committee solely campaigned in WA-10, not  
13 WA-09. Resp. at 1. As part of its Response, the Committee submitted fundraising letters  
14 dated January 2012 and February 2012 and press releases dated December 29, 2011, and April  
15 2, 2012, which state that Muri is a candidate in WA-10. Resp. at 4-11.

16 The Committee also submitted a letter from Morse acknowledging that the  
17 Committee's Form 1 and Muri's Form 2 did not reflect the change in district until April 2012.  
18 Morse states that when she initially filed a Statement of Organization and Muri filed a  
19 Statement of Candidacy in August 2011 — prior to the redistricting and creation of WA-10 —

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<sup>2</sup> On January 1, 2012, the Washington State Redistricting Commission unanimously approved the final version of the Washington State Redistricting Plan, establishing the new district of WA-10. The redistricting plan became effective on February 7, 2012, when it was signed into law with technical edits. See <http://www.redistricting.wa.gov/>.

<sup>3</sup> The Complainant also asks whether a Committee is permitted to "transfer those donations" raised in the original district without asking contributors, and asks what contributors may do if they do not support Muri in the new district. Compl. at 2. Since the Complainant has not alleged any violation of the Act relating to contributions, but rather merely poses a hypothetical question without any factual underpinning, we have not addressed the issue.

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1 Muri resided in WA-09. Morse states that after redistricting, the campaign's district changed  
2 to WA-10. Resp. at 2. Thus, after seeking input from the Reports Analysis Division ("RAD")  
3 in April of 2012, the Committee amended its Statement of Organization and Muri's Statement  
4 of Candidacy on April 17, 2012.<sup>4</sup> The reports filed by the Committee on January 25, January  
5 30, and February 22, 2012 show WA-09 in the state and district boxes. Morse asserts that  
6 there was no effort to deceive and states that the incorrect district number on the initial 2012  
7 reports has since been corrected, although problems with electronic filing made the process  
8 difficult. Resp. at 2-3. Morse also points out that each of the Committee's disclosure reports  
9 filed after April 2, 2012 reflect WA-10 as the state and district sought by the candidate.

10 The Act and Commission regulations require that each candidate for Federal office  
11 shall designate a political committee to serve as his or her principal campaign committee. 2  
12 U.S.C § 432(e)(1); 11 C.F.R. § 102.12(a). Commission regulations require a candidate to  
13 designate his or her principal campaign committee by filing a Statement of Candidacy on FEC  
14 Form 2, containing, in addition to other information, the state and district in which Federal  
15 office is sought. 11 C.F.R. § 101.1(a). A candidate's principal campaign committee is  
16 required to file a Statement of Organization no later than 10 days after designation. 2 U.S.C.  
17 § 433(a); 11 C.F.R. § 102.1(a). The principal campaign committee's Statement of  
18 Organization shall include, in addition to other information, the state and congressional district  
19 of the office sought. 2 U.S.C. § 433(b)(5); 11 C.F.R. § 102.2(a)(v). Any change in

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<sup>4</sup> Morse claims she initially contacted the Committee's RAD analyst in early April 2012, seeking help in changing the district number in the Committee's FEC filings, and claims that following their discussion she believed the changes she made to the Committee's disclosure reports were in compliance with Commission regulations. More specifically, she states that the Committee's amended reports filed in April accurately reflected the correct district number, but only later in the month did she discover that an FEC listing of WA-10 candidates did not include Muri. She again contacted RAD to resolve the issue and, on April 17, 2012, filed an amended Statement of Organization and amended Statement of Candidacy that resulted in accurately listing Muri as a candidate in WA-10.

1 information previously submitted in a Statement of Organization, including a change in  
2 Congressional district as a result of redistricting, is required to be reported to the Commission  
3 by filing an amended Statement of Organization no later than 10 days after the date of the  
4 change. *See* 2 U.S.C. § 433(c); 11 C.F.R. § 102.2(a)(2); Advisory Op. 1982-22 (Steve Bartlett  
5 for Congress Committee).<sup>5</sup>

6 On January 1, 2012, the Washington State Redistricting Commission approved the  
7 state's redistricting plan, including the new district of WA-10, and Muri subsequently  
8 campaigned in WA-10. The plan was signed into law on February 7, 2012. The Committee  
9 should have filed an amended Statement of Organization and Muri should have filed an  
10 amended Statement of Candidacy within ten days of February 7, 2012 (the effective date of the  
11 redistricting). However, Muri did not file an amended Statement of Candidacy, and the  
12 Committee did not file an amended Statement of Organization reflecting the change in  
13 information until April 17, 2012.

14 Nonetheless, in light of the Committee's attempts to seek guidance from the  
15 Commission, coupled with its quick remedial action when it learned of its reporting anomalies,  
16 the Office of General Counsel does not believe further enforcement action is necessary and,  
17 therefore, recommends that the Commission dismiss this matter pursuant to *Heckler*  
18 *v. Chaney*, 470 U.S. 821 (1985), approve the attached Factual and Legal Analysis and the  
19 appropriate letters, and close the file.

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<sup>5</sup> RAD offers guidance regarding redistricting in the "General Reporting Questions" section of the FEC website where it advises that candidates and Principal Campaign Committees running in regularly scheduled elections in states that have gone through a redistricting process "should submit an Amended Statement of Organization AND Statement of Candidacy (Forms 1 and 2) to reflect the new district."  
<http://www.fec.gov/rad/candidates/FEC-ReportsAnalysisDivision-CandidateCommittees.shtml#ChangeDistricts>.

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**RECOMMENDATIONS**


1. Dismiss MUR 6559, pursuant to the Commission's prosecutorial discretion;
2. Approve the attached Factual & Legal Analysis and the appropriate letters; and
3. Close the file.

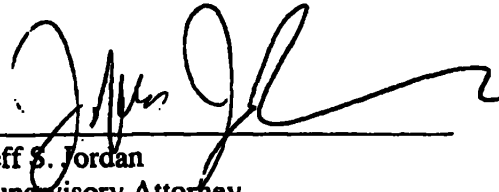
Anthony Herman  
General Counsel

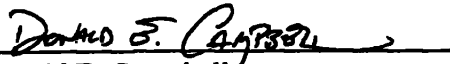
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10/22/12

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